

DRAFT: May 18, 1995

**REGISTRATION RIGHTS AGREEMENT**

THIS REGISTRATION RIGHTS AGREEMENT (this "Agreement"), dated as of the \_\_\_\_ day of \_\_\_\_\_ May, 1995, is entered into between America Online, Inc. ("AOL") and each of the persons or entities listed on the signature page hereto.

WHEREAS, AOL, Sub (as hereinafter defined) and WAIS (as hereinafter defined) have entered into an Agreement and Plan of Reorganization (the "Reorganization Agreement") pursuant to which AOL and WAIS intend to merge Sub with and into WAIS (the "Merger"); and

WHEREAS, under the terms of the Reorganization Agreement, AOL intends to deliver to the Shareholders a number of shares (the "Shares") of Common Stock, \$.01 par value (the "Common Stock"), of AOL based on a conversion ratio set forth therein in consideration for the acquisition of WAIS; and

WHEREAS, the Shares will not be registered with the Commission at the time of issuance; and

WHEREAS, AOL is agreeable to granting certain registration rights to the Shareholders.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and contained in this Agreement, the parties agree as follows:

**Section 1. Definitions.**

As used in this Agreement, references to either gender shall include the other gender, and the following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined). Terms not defined herein have the meanings ascribed to them in the Reorganization Agreement:

"AOL" means and shall include America Online, Inc., a Delaware corporation, and its successors and permitted assigns.

"Commission" means the United States Securities and Exchange Commission, or any other agency successor thereto.

"Effective Date" means the first date on which the Merger will be effective under California law.

"Exchange Act" means the Securities Exchange Act of 1934 or any similar federal statute, and the rules and regulations of the Commission thereunder, all as the same shall be in effect at the time.

"Other Shares" shall mean at any time those shares of AOL Common Stock that do not constitute Primary Shares or Registrable Shares.

"Person" means an individual, corporation, partnership, association, joint venture, trust, or unincorporated organization, or a government or any agency or political subdivision thereof.

"Primary Shares" shall mean at any time the authorized but unissued shares of AOL's Common Stock or shares of AOL's Common Stock held in Treasury.

"Registrable Shares" means the Shares, provided that any of the foregoing shares shall cease to be Registrable Shares upon (a) any sale of such shares pursuant to (1) a registration statement filed under the Securities Act or (2) Rule 144 promulgated under the Securities Act or any other exemption from the registration requirements of the Securities Act or (b) such shares becoming eligible for sale pursuant to Rule 144 promulgated under the Securities Act.

"Securities Act: means the Securities Act of 1933 or any similar Federal statute, and the rules and regulations of the Commission thereunder, all as the same shall be in effect at the time.

"Shareholders" shall mean Brewster Kahle, WS Investment Co. 95A and Allen L. Morgan, the former holders of WAIS stock who received AOL shares in connection with the Merger.

"Sub" means and shall include AOL Acquisition Corp., a California corporation.

"WAIS" means and shall include Wide Area Information Servers, a California corporation, and its successors and permitted assigns.

## **Section 2. Demand Registration Rights.**

(a) Within one year after the Effective Date, AOL will afford the Shareholders, as a group, one or more opportunities to register the Shareholders' Registrable Shares, resulting in aggregate net proceeds of at least \$1,000,000 in such one year period, under the Securities Act on Form S-3 or other registration forms under the Securities Act (each, a "Registration Statement") on such terms and conditions and under such manner of sale and plan of distribution (including an underwritten offering) as AOL may determine in its sole discretion; provided, however, that no such exercise of AOL's discretion shall limit AOL's obligation, which shall remain absolute, to register (as requested by the Shareholders) Registrable Shares resulting in aggregate net proceeds of not less than \$1,000,000 within one year after the Effective Date; and provided, further, that (i) the Shareholders will request their Registrable Shares to be included in any and all registrations available to them under Section 3 below within such one year period, ~~and~~ (ii) the net proceeds from the sale of such Registrable Shares under Section 3 below within such one year period shall apply toward such \$1,000,000 obligation ~~and~~ (iii) such \$1,000,000 obligation shall be reduced to the extent AOL affords such Shareholders the

opportunity to participate in any such offering and such Shareholders decline to participate and (iv) nothing in this Section 2(a) shall confer on the Shareholders the right to require registration of any of the Registrable Shares at any particular time during such one year period. After filing any Registration Statement, AOL shall use reasonable efforts to cause such Registration Statement to become effective.

(b) In the event that (i) one or more Registration Statements are not declared effective by the Commission for any reason whatsoever or (ii) AOL withdraws the Registration Statement at any time prior to fifteen (15) days after its effectiveness because of a Suspension Event (as defined below), and up to \$1,000,000 of aggregate net proceeds have not been received from the sale of the Shareholders' Registrable Shares, at any time after one year after the Effective Date, if AOL is then eligible to file a registration statement under the Securities Act on Form S-3, the Shareholders may by written notice to AOL request that AOL register under the Securities Act the remaining Registrable Shares necessary to generate an aggregate of \$1,000,000 in net proceeds. If the Shareholders so request, AOL shall, as soon as practicable thereafter but in no event later than three (3) months following the date of such written notice, file a Registration Statement covering such remaining Registrable Shares and, after such filing, AOL shall use reasonable efforts to cause such Registration Statement to become effective and to maintain the effectiveness thereof for a period of fifteen (15) days, or until such earlier date as the Registrable Shares may be transferred without registration under the Securities Act; provided that (i) the effectiveness of the Registration Statement may be terminated earlier if and to the extent that all of the Registrable Shares thereby registered have been disposed of by the Shareholders and (ii) AOL's obligation under this Section 2 to file a Registration Statement as soon as practicable and to use reasonable efforts to cause such Registration Statement to become and remain effective shall be suspended in the event and during such period as certain circumstances exist (such circumstances being hereinafter referred to as a "Suspension Event") which would make it impractical or inadvisable in AOL's good faith opinion to file or maintain the effectiveness of a Registration Statement, but such suspension shall only continue until (a) such event is no longer continuing or (b) three (3) months after the commencement of such suspension, whichever is earlier. A Suspension Event shall include, but shall not be limited to, (i) an underwritten primary offering by AOL if AOL is advised in writing by the managing underwriter of such underwritten offering that, in its good faith judgment, the sale of securities under a Registration Statement would interfere with the successful marketing of the securities to be offered under such primary offering; (ii) pending negotiations relating to, or existence of any other event, fact or circumstance which would require disclosure by AOL in the Registration Statement of information regarding AOL or its business, business plans, financial condition or results of operations which has not previously been disclosed by AOL in a report filed under the Exchange Act or by public announcement; or (iii) the failure by the Shareholders to cooperate with AOL and to furnish to AOL all information in connection with the preparation of the Registration Statement as AOL may reasonably request. AOL shall be entitled to include in any Registration Statement filed pursuant to this Section 2 any other securities to be sold by AOL for its own account or for the account of any of AOL's other securityholders, except as and to the extent that, the managing underwriter (if such method of disposition shall be an underwritten public offering) determines that, because of marketing factors, all of the Registrable Shares and all such other

securities may not be included in the offering. AOL shall not be required to effect more than one registration pursuant to this Section 2(b).

### **Section 3. Piggyback Registration Rights.**

If at any time within two years after the Effective Date AOL proposes for any reason to register Primary Shares or Other Shares under the Securities Act (other than on Form S-4 or Form S-8 promulgated under the Securities Act or any successor forms thereto), it shall promptly give written notice to the Shareholders of its intention so to register such shares and, upon the written request by the Shareholders, given within 30 days after delivery of such notice by AOL, to include in such registration certain of the Registrable Shares, AOL shall use its best efforts to cause all such Registrable Shares to be included in such registration on the same terms and conditions as the securities otherwise being sold in such registration, provided, however, that the rights granted hereunder shall be subject at all times to the contractual rights of any third parties previously granted; and provided further, however, that if the managing underwriter in the good faith exercise of its reasonable judgment advises AOL in writing that the inclusion of all Registrable Shares proposed to be included in such registration would interfere with the successful marketing (including pricing) of Primary Shares or Other Shares proposed to be registered by AOL, then the number of Primary Shares, Registrable Shares and Other Shares proposed to be included in such registration shall be included in the following order:

- (i) first, the Primary Shares;
- (ii) second, the Other Shares; and
- (iii) third, the Registrable Shares requested to be included in such registration, pro rata based upon the number of Registrable Shares proposed to be included in such registration.

### **Section 4. Terms and Conditions.**

(a) All fees and expenses incurred by AOL in connection with the performance of its obligation to register the Registrable Shares pursuant to ~~subsection (a)~~ Section 2 above shall be shared equally by AOL and the Shareholders. All fees and expenses that are incurred by AOL in connection with the performance of its registration of the Registrable Shares pursuant to Section 3 above and that are not borne solely by AOL under any other agreement with the holders of the Other Shares shall be borne by the Shareholders pro rata with the holders of the Other Shares. All underwriting discounts and selling commissions with respect to the Registrable Shares, if any, fees and expenses of the Shareholders or of their counsel, and transfer taxes applicable to the sale of such Registrable Shares, shall be borne by the Shareholders.

(b) The Shareholders agree, if requested by AOL and/or the representative of the underwriters underwriting an offering of Common Stock (or other securities of AOL) from time to time, not to sell or otherwise transfer or dispose of any Registrable Shares then held by the Shareholders during such period of time following the Effective Date of any registration statement of AOL (other than any Registration Statement) filed under the Securities Act for the

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# FAX transmission

**DATE:** May 8, 1995**FROM:****HARRY BOADWEE**

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**TO:** Mr. Preston Green (703) 448-9164  
America Online, Inc.

**Please deliver copies to Sheila Burke, Esq.  
and Paul Baker, Esq.**

Ms. Sharnette Smith (703) 506-1942  
America Online, Inc.

**Please deliver copies to Mr. Bill Dunn, Mr. Len  
Leader, and Mr. Miles Gilburne**

Allen Morgan, Esq. (415) 496-4092  
Wilson, Sonsini, Goodrich & Rosati, P.C.

WAIS Inc. (415) 356-5444

**Please deliver a copy to Mr. Brewster Kahle  
(WAIS, Inc.) and Mr. David Kaiser (Websoft)**

Mr. Pete Buzy (703) 903-5200  
Ernst & Young LLP

**NO. PAGES:** 5 (including cover page)

**ACCOUNT NO.:** 19649-00100

■ Message:

Attached are changed pages to the draft Registration Rights Agreement between AOL and WAIS.

**IF YOU DO NOT RECEIVE THE CORRECT NUMBER OF PAGES, OR IF THEY ARE NOT CLEAR, PLEASE CALL THE SENDER AT (415) 858-7188 OR SUE BRODSKY AT (415) 494-0600, EXT. 488.** The information contained in this facsimile message is privileged and confidential information intended only for the use of the individual or entity named above or their designee. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error please immediately notify us by telephone and return the original message to us at the above address via the U.S. Postal Service. Thank you.